

1 SENATE JOINT MEMORIAL 71

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 Vernon D. Asbill

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10 A JOINT MEMORIAL

11 REQUESTING THE SUPERINTENDENT OF INSURANCE TO CONVENE A WORK  
12 GROUP TO STUDY THE COSTS AND BENEFITS OF THE STATUTORY  
13 REQUIREMENT FOR THE BONDING OF SUBCONTRACTORS ON PUBLIC WORKS  
14 BUILDING PROJECTS.

15  
16 WHEREAS, in 2005, legislation was enacted to require a  
17 subcontractor to provide a performance and payment bond on a  
18 public works building project if the contract for the work to  
19 be performed on the project is fifty thousand dollars (\$50,000)  
20 or more; and

21 WHEREAS, the statutory language was amended in 2007 to  
22 increase the limit on a project to one hundred twenty-five  
23 thousand dollars (\$125,000); and

24 WHEREAS, the bonding of contractors and subcontractors is  
25 intended to protect payment of all workers, subcontractors and

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1 material suppliers by providing a remedy for recovery of funds  
2 due for wages, performing work or providing materials on a  
3 state or local construction project; and

4 WHEREAS, it has been argued that, by adding the  
5 requirement of bonding of subcontractors, the owner will  
6 benefit through proportional reductions in the general  
7 contractor bond costs passed on to the owner through lower risk  
8 of subcontractor default; and

9 WHEREAS, public school facilities authority data indicate  
10 that general contractor bond costs remain at essentially the  
11 same rate as they were before subcontractor bonding was  
12 enacted; and

13 WHEREAS, others have argued that the addition of the  
14 subcontractor bonding requirement appears to have contributed  
15 to disproportionate increases in construction costs, especially  
16 in rural areas, and has limited the number of subcontractors  
17 able to perform work on projects; and

18 WHEREAS, increased costs to projects may vary depending on  
19 the amount of work to be provided by subcontractors and the  
20 capabilities and capacity of the general contractor; and

21 WHEREAS, because these issues continue to be argued,  
22 legislation is introduced each year to modify or repeal the  
23 subcontractor bonding requirement; and

24 WHEREAS, a number of entities have an interest in and  
25 concerns about the subcontractor bonding requirement;

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1           NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
2 STATE OF NEW MEXICO that the superintendent of insurance be  
3 requested to convene a work group to study the costs and  
4 benefits of the statutory requirement that all subcontractors  
5 on public works projects of more than one hundred twenty-five  
6 thousand dollars (\$125,000) be bonded; and

7           BE IT FURTHER RESOLVED that membership on the work group  
8 include the following:

9           A. the secretary of general services or the  
10 secretary's designee;

11           B. the secretary of higher education or the  
12 secretary's designee;

13           C. the secretary of transportation or the  
14 secretary's designee;

15           D. the director of the public school facilities  
16 authority or the director's designee;

17           E. the director of the construction industries  
18 division of the regulation and licensing department or the  
19 director's designee;

20           F. one representative appointed by the associated  
21 general contractors;

22           G. one representative appointed by the New Mexico  
23 federation of labor;

24           H. one representative appointed by the New Mexico  
25 association of counties;

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